



# House of Representatives

General Assembly

**File No. 445**

February Session, 2010

Substitute House Bill No. 5471

*House of Representatives, April 12, 2010*

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING INDEPENDENT EXPENDITURES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-601 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this chapter and [sections 9-700 to 9-716, inclusive]  
4 chapter 157:

5 (1) "Committee" means a party committee, political committee or a  
6 candidate committee organized, as the case may be, for a single  
7 primary, election or referendum, or for ongoing political activities, to  
8 aid or promote the success or defeat of any political party, any one or  
9 more candidates for public office or the position of town committee  
10 member or any referendum question.

11 (2) "Party committee" means a state central committee or a town  
12 committee. "Party committee" does not mean a party-affiliated or

13 district, ward or borough committee which receives all of its funds  
14 from the state central committee of its party or from a single town  
15 committee with the same party affiliation. Any such committee so  
16 funded shall be construed to be a part of its state central or town  
17 committee for purposes of this chapter and sections 9-700 to 9-716,  
18 inclusive.

19 (3) "Political committee" means (A) a committee organized by a  
20 business entity or organization, (B) persons other than individuals, or  
21 two or more individuals organized or acting jointly conducting their  
22 activities in or outside the state, (C) an exploratory committee, (D) a  
23 committee established by or on behalf of a slate of candidates in a  
24 primary for the office of justice of the peace, but does not mean a  
25 candidate committee or a party committee, (E) a legislative caucus  
26 committee, or (F) a legislative leadership committee.

27 (4) "Candidate committee" means any committee designated by a  
28 single candidate, or established with the consent, authorization or  
29 cooperation of a candidate, for the purpose of a single primary or  
30 election and to aid or promote such candidate's candidacy alone for a  
31 particular public office or the position of town committee member, but  
32 does not mean a political committee or a party committee.

33 (5) "Exploratory committee" means a committee established by a  
34 candidate for a single primary or election (A) to determine whether to  
35 seek nomination or election to (i) the General Assembly, (ii) a state  
36 office, as defined in subsection (e) of section 9-610, or (iii) any other  
37 public office, and (B) if applicable, to aid or promote [said] such  
38 candidate's candidacy for nomination to the General Assembly or any  
39 such state office.

40 (6) "National committee" means the organization which according to  
41 the bylaws of a political party is responsible for the day-to-day  
42 operation of the party at the national level.

43 (7) "Organization" means all labor organizations, (A) as defined in  
44 the Labor-Management Reporting and Disclosure Act of 1959, as from

45 time to time amended, or (B) as defined in subdivision (9) of section  
46 31-101, employee organizations as defined in subsection (d) of section  
47 5-270 and subdivision (6) of section 7-467, bargaining representative  
48 organizations for teachers, any local, state or national organization, to  
49 which a labor organization pays membership or per capita fees, based  
50 upon its affiliation or membership, and trade or professional  
51 associations which receive their funds exclusively from membership  
52 dues, whether organized in or outside of this state, but does not mean  
53 a candidate committee, party committee or a political committee.

54 (8) "Business entity" means the following, whether organized in or  
55 outside of this state: Stock corporations, banks, insurance companies,  
56 business associations, bankers associations, insurance associations,  
57 trade or professional associations which receive funds from  
58 membership dues and other sources, partnerships, joint ventures,  
59 private foundations, as defined in Section 509 of the Internal Revenue  
60 Code of 1986, or any subsequent corresponding internal revenue code  
61 of the United States, as from time to time amended; trusts or estates;  
62 corporations organized under sections 38a-175 to 38a-192, inclusive,  
63 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, and  
64 chapters 594 to 597, inclusive; cooperatives, and any other association,  
65 organization or entity which is engaged in the operation of a business  
66 or profit-making activity; but does not include professional service  
67 corporations organized under chapter 594a and owned by a single  
68 individual, nonstock corporations which are not engaged in business  
69 or profit-making activity, organizations, as defined in subdivision [(6)]  
70 (7) of this section, candidate committees, party committees and  
71 political committees as defined in this section. For purposes of this  
72 chapter, corporations which are component members of a controlled  
73 group of corporations, as those terms are defined in Section 1563 of the  
74 Internal Revenue Code of 1986, or any subsequent corresponding  
75 internal revenue code of the United States, as from time to time  
76 amended, shall be deemed to be one corporation.

77 (9) "Individual" means a human being, a sole proprietorship, or a  
78 professional service corporation organized under chapter 594a and

79 owned by a single human being.

80 (10) "Person" means an individual, committee, firm, partnership,  
81 organization, association, syndicate, company trust, corporation,  
82 limited liability company or any other legal entity of any kind but does  
83 not mean the state or any political or administrative subdivision of the  
84 state.

85 (11) "Candidate" means an individual who seeks nomination for  
86 election or election to public office whether or not such individual is  
87 elected, and for the purposes of this chapter and sections 9-700 to 9-  
88 716, inclusive, an individual shall be deemed to seek nomination for  
89 election or election if such individual has (A) been endorsed by a party  
90 or become eligible for a position on the ballot at an election or primary,  
91 or (B) solicited or received contributions, made expenditures or given  
92 such individual's consent to any other person to solicit or receive  
93 contributions or make expenditures with the intent to bring about such  
94 individual's nomination for election or election to any such office.  
95 "Candidate" also means a slate of candidates which is to appear on the  
96 ballot in a primary for the office of justice of the peace. For the  
97 purposes of sections 9-600 to 9-610, inclusive, as amended by this act,  
98 and section 9-621, as amended by this act, "candidate" also means an  
99 individual who is a candidate in a primary for town committee  
100 members.

101 (12) "Campaign treasurer" means the individual appointed by a  
102 candidate or by the chairperson of a party committee or a political  
103 committee to receive and disburse funds on behalf of the candidate or  
104 committee.

105 (13) "Deputy campaign treasurer" means the individual appointed  
106 by the candidate or by the chairperson of a committee to serve in the  
107 capacity of the campaign treasurer if the campaign treasurer is unable  
108 to perform the campaign treasurer's duties.

109 (14) "Solicitor" means an individual appointed by a campaign  
110 treasurer of a committee to receive, but not to disburse, funds on

111   behalf of the committee.

112       (15) "Referendum question" means a question to be voted upon at  
113   any election or referendum, including a proposed constitutional  
114   amendment.

115       (16) "Lobbyist" means a lobbyist, as defined in section 1-91 and  
116   "communicator lobbyist" means a communicator lobbyist, as defined  
117   in section 1-91.

118       (17) "Business with which he is associated" means any business in  
119   which the contributor is a director, officer, owner, limited or general  
120   partner or holder of stock constituting five per cent or more of the total  
121   outstanding stock of any class. Officer refers only to the president,  
122   executive or senior vice-president or treasurer of such business.

123       [(18) "Independent expenditure" means an expenditure that is made  
124   without the consent, knowing participation, or consultation of, a  
125   candidate or agent of the candidate committee and is not a coordinated  
126   expenditure.

127       (19) "Coordinated expenditure" means an expenditure made by a  
128   person:

129       (A) In cooperation, consultation, in concert with, at the request,  
130   suggestion or direction of, or pursuant to a general or particular  
131   understanding with (i) a candidate, candidate committee, political  
132   committee or party committee, or (ii) a consultant or other agent acting  
133   on behalf of a candidate, candidate committee, political committee or  
134   party committee;

135       (B) For the production, dissemination, distribution or publication, in  
136   whole or in substantial part, of any broadcast or any written, graphic  
137   or other form of political advertising or campaign communication  
138   prepared by (i) a candidate, candidate committee, political committee  
139   or party committee, or (ii) a consultant or other agent acting on behalf  
140   of a candidate, candidate committee, political committee or party  
141   committee;

142 (C) Based on information about a candidate's plans, projects or  
143 needs, provided by (i) a candidate, candidate committee, political  
144 committee or party committee, or (ii) a consultant or other agent acting  
145 on behalf of a candidate, candidate committee, political committee or  
146 party committee, with the intent that such expenditure be made;

147 (D) Who, in the same election cycle, is serving or has served as the  
148 campaign chairperson, campaign treasurer or deputy treasurer of a  
149 candidate committee, political committee or party committee  
150 benefiting from such expenditure, or in any other executive or  
151 policymaking position as a member, employee, fundraiser, consultant  
152 or other agent of a candidate, candidate committee, political committee  
153 or party committee;

154 (E) For fundraising activities (i) with or for a candidate, candidate  
155 committee, political committee or party committee, or a consultant or  
156 other agent acting on behalf of a candidate, candidate committee,  
157 political committee or party committee, or (ii) for the solicitation or  
158 receipt of contributions on behalf of a candidate, candidate committee,  
159 political committee or party committee, or a consultant or other agent  
160 acting on behalf of a candidate, candidate committee, political  
161 committee or party committee;

162 (F) Based on information about a candidate's campaign plans,  
163 projects or needs, that is directly or indirectly provided by said  
164 candidate, the candidate's candidate committee, a political committee  
165 or a party committee, or a consultant or other agent acting on behalf of  
166 said candidate, candidate committee, political committee or party  
167 committee, to the person making the expenditure or said person's  
168 agent, with an express or tacit understanding that said person is  
169 considering making the expenditure; or

170 (G) For a communication that clearly identifies a candidate during  
171 an election campaign, if the person making the expenditure, or said  
172 person's agent, has informed said candidate, the candidate's candidate  
173 committee, a political committee or a party committee, or a consultant  
174 or other agent acting on behalf of said candidate, candidate committee,

175 political committee or party committee, concerning the  
176 communication's contents, intended audience, timing, location or  
177 mode or frequency of dissemination.]

178 [(20)] (18) "Federal account" means a depository account that is  
179 subject to the disclosure and contribution limits provided under the  
180 Federal Election Campaign Act of 1971, as amended from time to time.

181 [(21)] (19) "Public funds" means funds belonging to, or under the  
182 control of, the state or a political subdivision of the state.

183 [(22)] (20) "Legislative caucus committee" means a committee  
184 established under subdivision (2) of subsection (e) of section 9-605 by  
185 the majority of the members of a political party who are also state  
186 representatives or state senators.

187 [(23)] (21) "Legislative leadership committee" means a committee  
188 established under subdivision (3) of subsection (e) of section 9-605 by a  
189 leader of the General Assembly.

190 [(24)] (22) "Immediate family" means the spouse or a dependent  
191 child of an individual.

192 [(25)] (23) "Organization expenditure" means an expenditure by a  
193 party committee, legislative caucus committee or legislative leadership  
194 committee for the benefit of a candidate or candidate committee for:

195 (A) The preparation, display or mailing or other distribution of a  
196 party candidate listing. As used in this subparagraph, "party candidate  
197 listing" means any communication that meets the following criteria: (i)  
198 The communication lists the name or names of candidates for election  
199 to public office, (ii) the communication is distributed through public  
200 advertising such as broadcast stations, cable television, newspapers or  
201 similar media, or through direct mail, telephone, electronic mail,  
202 publicly accessible sites on the Internet or personal delivery, (iii) the  
203 treatment of all candidates in the communication is substantially  
204 similar, and (iv) the content of the communication is limited to (I) for  
205 each such candidate, identifying information, including photographs,

206 the office sought, the office currently held by the candidate, if any, the  
207 party enrollment of the candidate, a brief statement concerning the  
208 candidate's positions, philosophy, goals, accomplishments or  
209 biography and the positions, philosophy, goals or accomplishments of  
210 the candidate's party, (II) encouragement to vote for each such  
211 candidate, and (III) information concerning voting, including voting  
212 hours and locations;

213 (B) A document in printed or electronic form, including a party  
214 platform, a copy of an issue paper, information pertaining to the  
215 requirements of this title, a list of registered voters and voter  
216 identification information, which document is created or maintained  
217 by a party committee, legislative caucus committee or legislative  
218 leadership committee for the general purposes of party or caucus  
219 building and is provided (i) to a candidate who is a member of the  
220 party that has established such party committee, or (ii) to a candidate  
221 who is a member of the party of the caucus or leader who has  
222 established such legislative caucus committee or legislative leadership  
223 committee, whichever is applicable;

224 (C) A campaign event at which a candidate or candidates are  
225 present;

226 (D) The retention of the services of an advisor to provide assistance  
227 relating to campaign organization, financing, accounting, strategy, law  
228 or media; or

229 (E) The use of offices, telephones, computers and similar equipment  
230 which does not result in additional cost to the party committee,  
231 legislative caucus committee or legislative leadership committee.

232 [(26)] (24) "Solicit" means (A) requesting that a contribution be  
233 made, (B) participating in any fund-raising activities for a candidate  
234 committee, exploratory committee, political committee or party  
235 committee, including, but not limited to, forwarding tickets to  
236 potential contributors, receiving contributions for transmission to any  
237 such committee or bundling contributions, (C) serving as chairperson,



238 treasurer or deputy treasurer of any such committee, or (D)  
239 establishing a political committee for the sole purpose of soliciting or  
240 receiving contributions for any committee. "Solicit" does not include (i)  
241 making a contribution that is otherwise permitted under this chapter,  
242 (ii) informing any person of a position taken by a candidate for public  
243 office or a public official, (iii) notifying the person of any activities of,  
244 or contact information for, any candidate for public office, or (iv)  
245 serving as a member in any party committee or as an officer of such  
246 committee that is not otherwise prohibited in this subdivision.

247 [(27)] (25) "Agent" means any person acting at the direction of [an  
248 individual] another person.

249 (26) "Entity" means the following, whether organized in this or any  
250 other state: An organization, corporation, cooperative association,  
251 limited partnership, professional association, limited liability  
252 company, and limited liability partnership.

253 Sec. 2. (NEW) (*Effective from passage*) (a) As used in chapters 155 and  
254 157 of the general statutes, the term "independent expenditure" means  
255 an expenditure, as defined in section 9-601b of the general statutes,  
256 that is made without the consent, coordination, or consultation of, a  
257 candidate or agent of the candidate, candidate committee, political  
258 committee or party committee.

259 (b) When the State Elections Enforcement Commission evaluates an  
260 expenditure to determine whether such expenditure is an independent  
261 expenditure, there shall be a rebuttable presumption that the following  
262 expenditures are not independent expenditures:

263 (1) An expenditure made by a person in cooperation, consultation or  
264 in concert with, at the request, suggestion or direction of, or pursuant  
265 to a general or particular understanding with (A) a candidate,  
266 candidate committee, political committee or party committee, or (B) a  
267 consultant or other agent acting on behalf of a candidate, candidate  
268 committee, political committee or party committee;

269       (2) An expenditure made by a person for the production,  
270       dissemination, distribution or publication, in whole or in substantial  
271       part, of any broadcast or any written, graphic or other form of political  
272       advertising or campaign communication prepared by (A) a candidate,  
273       candidate committee, political committee or party committee, or (B) a  
274       consultant or other agent acting on behalf of a candidate, candidate  
275       committee, political committee or party committee;

276       (3) An expenditure made by a person based on information about a  
277       candidate's, political committee's, or party committee's plans, projects  
278       or needs, provided by (A) a candidate, candidate committee, political  
279       committee or party committee, or (B) a consultant or other agent acting  
280       on behalf of a candidate, candidate committee, political committee or  
281       party committee, with the intent that such expenditure be made;

282       (4) An expenditure made by an individual who, in the same election  
283       cycle, is serving or has served as the campaign chairperson, campaign  
284       treasurer or deputy treasurer of a candidate committee, political  
285       committee or party committee benefiting from such expenditure, or in  
286       any other executive or policymaking position, including as a member,  
287       employee, fundraiser, consultant or other agent, of a candidate,  
288       candidate committee, political committee or party committee;

289       (5) An expenditure made by a person who is an officer, director,  
290       member, employee, fundraiser, consultant or other agent who serves  
291       the entity, political committee or party committee in an executive or  
292       policymaking position or serves as or has served in the same election  
293       cycle as the candidate or the campaign chairperson, campaign  
294       treasurer or deputy treasurer of a candidate committee, political  
295       committee or party committee benefiting from such expenditure, or in  
296       any other executive or policymaking position of the candidate  
297       committee, political committee or party committee;

298       (6) An expenditure made by a person for fundraising activities (A)  
299       with or for a candidate, candidate committee, political committee or  
300       party committee, or a consultant or other agent acting on behalf of a  
301       candidate, candidate committee, political committee or party

302 committee, or (B) for the solicitation or receipt of contributions on  
303 behalf of a candidate, candidate committee, political committee or  
304 party committee, or a consultant or other agent acting on behalf of a  
305 candidate, candidate committee, political committee or party  
306 committee;

307 (7) An expenditure made by a person based on information about a  
308 candidate's campaign plans, projects or needs, that is directly or  
309 indirectly provided by a candidate, the candidate's candidate  
310 committee, a political committee or a party committee, or a consultant  
311 or other agent acting on behalf of such candidate, candidate  
312 committee, political committee or party committee, to the person  
313 making the expenditure or such person's agent, with an express or tacit  
314 understanding that such person is considering making the  
315 expenditure; and

316 (8) An expenditure made by a person for a communication that  
317 clearly identifies a candidate during an election campaign, if the  
318 person making the expenditure, or such person's agent, has informed  
319 the candidate who benefits from the expenditure, that candidate's  
320 candidate committee, a political committee or a party committee, or a  
321 consultant or other agent acting on behalf of the benefiting candidate  
322 or candidate committee, political committee, or party committee,  
323 concerning the communication's contents, or of the intended audience,  
324 timing, location or mode or frequency of dissemination. As used in this  
325 subdivision, a communication "clearly identifies a candidate" when  
326 that communication contains the name, nickname, initials, photograph  
327 or drawing of the candidate or an unambiguous reference to that  
328 candidate, which includes, but is not limited to, a reference that can  
329 only mean that candidate.

330 Sec. 3. Subsection (a) of section 9-601a of the general statutes is  
331 repealed and the following is substituted in lieu thereof (*Effective from*  
332 *passage*):

333 (a) As used in this chapter and [sections 9-700 to 9-716, inclusive]  
334 chapter 157, "contribution" means:

335 (1) Any gift, subscription, loan, advance, payment or deposit of  
336 money or anything of value, made for the purpose of influencing the  
337 nomination for election, or election, of any person or for the purpose of  
338 aiding or promoting the success or defeat of any referendum question  
339 or on behalf of any political party;

340 (2) A written contract, promise or agreement to make a contribution  
341 for any such purpose;

342 (3) The payment by any person, other than a candidate or campaign  
343 treasurer, of compensation for the personal services of any other  
344 person which are rendered without charge to a committee or candidate  
345 for any such purpose;

346 (4) An expenditure [when made by a person with the cooperation  
347 of, or in consultation with, any candidate, candidate committee or  
348 candidate's agent or which is made in concert with, or at the request or  
349 suggestion of, any candidate, candidate committee or candidate's  
350 agent, including a coordinated expenditure] that is not an independent  
351 expenditure; or

352 (5) Funds received by a committee which are transferred from  
353 another committee or other source for any such purpose.

354 Sec. 4. Subsections (a) and (b) of section 9-602 of the general statutes  
355 are repealed and the following is substituted in lieu thereof (*Effective*  
356 *from passage*):

357 (a) Except with respect to an individual acting [on his own] alone, or  
358 with respect to a group of two or more individuals acting together that  
359 receives funds or makes or incurs expenditures not exceeding one  
360 thousand dollars in the aggregate, no contributions may be made,  
361 solicited or received and no expenditures may be made, directly or  
362 indirectly, in aid of or in opposition to the candidacy for nomination or  
363 election of any individual or any party or referendum question, unless  
364 (1) the candidate or chairman of the committee has filed a designation  
365 of a campaign treasurer and a depository institution situated in this

366 state as the depository for the committee's funds, or (2) the candidate  
367 [or, in the event of a referendum question, a group of individuals] has  
368 filed a certification in accordance with the provisions of section 9-604,  
369 [or 9-605, as the case may be.] In the case of a political committee, the  
370 filing of the statement of organization by the chairman of such  
371 committee, in accordance with the provisions of section 9-605, as  
372 amended by this act, shall constitute compliance with the provisions of  
373 this subsection.

374 (b) No contribution in aid of or in opposition to the candidacy of  
375 any person or to any party or referendum question shall be made at  
376 any time, except to the committee's campaign treasurer whose  
377 designation is on file with the proper authority, a solicitor [,] or a  
378 candidate who is exempt from the requirement to form a candidate  
379 committee and has filed a certification. [, or a group of individuals  
380 which have joined solely to support or oppose a referendum question  
381 and have filed a certification.]

382 Sec. 5. Subsection (d) of section 9-605 of the general statutes is  
383 repealed and the following is substituted in lieu thereof (*Effective from*  
384 *passage*):

385 (d) A group of two or more individuals who have joined solely to  
386 promote the success or defeat of a referendum question shall not be  
387 required to file as a political committee, make such designations in  
388 accordance with subsections (a) and (b) of this section or file  
389 statements pursuant to section 9-608, if the group does not receive or  
390 expend in excess of one thousand dollars for the entire campaign. [and  
391 the agent of such individuals files a certification with the proper  
392 authority or authorities as required under section 9-603 before an  
393 expenditure is made. The certification shall include the name of the  
394 group, or the names of the persons who comprise the group, and the  
395 name and address of the agent which shall appear on any  
396 communication paid for or sponsored by the group as required by  
397 section 9-621. If the group receives or expends in excess of one  
398 thousand dollars, the agent] If the group receives funds or makes or

399 incurs expenditures exceeding one thousand dollars in the aggregate,  
400 the group shall complete the statement of organization and file as a  
401 political committee not later than three business days thereafter. The  
402 [agent] group shall provide the designated campaign treasurer with all  
403 information required for completion of the statements for filing as  
404 required by section 9-608. [The filing of a certification under this  
405 subsection shall not relieve the group from compliance with the  
406 provisions of this chapter, and the group shall be considered a political  
407 committee established solely for a referendum question for purposes  
408 of the limitations on contributions and expenditures.]

409 Sec. 6. Subsection (e) of section 9-612 of the 2010 supplement to the  
410 general statutes is repealed and the following is substituted in lieu  
411 thereof (*Effective from passage*):

412 (e) (1) Any individual, entity or committee acting alone may [,  
413 independent of any candidate, agent of the candidate, or committee,]  
414 make unlimited independent expenditures. [to promote the success or  
415 defeat of any candidate's campaign for election, or nomination at a  
416 primary, to any office or position.] Except as provided in subdivision  
417 (2) of this subsection, any such individual, [who makes] entity or  
418 committee that makes or obligates to make an independent  
419 expenditure or expenditures in excess of one thousand dollars, [to  
420 promote the success or defeat of any candidate's campaign for election,  
421 or nomination at a primary, to any such office or position] in the  
422 aggregate, shall file statements according to the same schedule and in  
423 the same manner as is required of a campaign treasurer of a candidate  
424 committee under section 9-608.

425 (2) Any [person who] individual, entity or committee that makes or  
426 obligates to make an independent expenditure or expenditures [, as  
427 defined in section 9-601, intended] to promote the success or defeat of  
428 a candidate for the office of Governor, Lieutenant Governor, Secretary  
429 of the State, State Treasurer, State Comptroller, Attorney General, state  
430 senator or state representative, which exceeds one thousand dollars, in  
431 the aggregate, during a primary campaign or a general election

432 campaign, as defined in section 9-700, on or after January 1, 2008, shall  
433 file a report of such independent expenditure to the State Elections  
434 Enforcement Commission. The report shall be in the same form as  
435 statements filed under section 9-608. If the [person] individual, entity  
436 or committee makes or obligates to make such independent  
437 expenditure or expenditures more than twenty days before the day of  
438 a primary or election, the [person] individual, entity or committee shall  
439 file such report not later than forty-eight hours after such payment or  
440 obligation. If the [person] individual, entity or committee makes or  
441 obligates to make such independent expenditure or expenditures  
442 twenty days or less before the day of a primary or election, the person  
443 shall file such report not later than twenty-four hours after such  
444 payment or obligation. The report shall be filed under penalty of false  
445 statement.

446 (3) The independent expenditure report [in subdivision (2) of this  
447 subsection shall include a statement (A) identifying] shall (A) identify  
448 the candidate for whom the independent expenditure or expenditures  
449 is intended to promote the success or defeat, [and (B) affirming that the  
450 expenditure is not a coordinated expenditure] (B) affirm under penalty  
451 of false statement that the expenditure is an independent expenditure,  
452 and (C) provide any information that the State Elections Enforcement  
453 Commission requires to facilitate compliance with the provisions of  
454 this chapter or chapter 157.

455 (4) Any person may file a complaint with the commission upon the  
456 belief that (A) any such independent expenditure report or statement  
457 is false, or (B) any [person who] individual, entity or committee that is  
458 required to file an independent expenditure report under [subdivision  
459 (2) of] this subsection has failed to do so. The commission shall make a  
460 prompt determination on such a complaint.

461 (5) (A) If [a person] an individual, entity or committee fails to file a  
462 report required under subdivision (2) of this subsection for an  
463 independent expenditure or expenditures made or obligated to be  
464 made more than twenty days before the day of a primary or election,

465 the person shall be subject to a civil penalty, imposed by the State  
466 Elections Enforcement Commission, of not more than five thousand  
467 dollars. If [a person] an individual, entity or committee fails to file a  
468 report required under subdivision (2) of this subsection for an  
469 independent expenditure or expenditures made or obligated to be  
470 made twenty days or less before the day of a primary or election, [the  
471 person] such individual, entity or committee shall be subject to a civil  
472 penalty, imposed by the State Elections Enforcement Commission, of  
473 not more than ten thousand dollars. (B) If any such failure is knowing  
474 and wilful, the person responsible for the failure shall also be fined not  
475 more than five thousand dollars or imprisoned not more than five  
476 years, or both.

477 Sec. 7. Section 9-613 of the general statutes is amended by adding  
478 subsection (g) as follows (*Effective from passage*):

479 (NEW) (g) Notwithstanding the provisions of this section, a  
480 business entity, acting alone, may make independent expenditures.

481 Sec. 8. Section 9-614 of the general statutes is amended by adding  
482 subsection (d) as follows (*Effective from passage*):

483 (NEW) (d) Notwithstanding the provisions of this section, an  
484 organization, acting alone, may make independent expenditures.

485 Sec. 9. Section 9-620 of the general statutes is repealed and the  
486 following is substituted in lieu thereof (*Effective from passage*):

487 (a) A political committee formed solely to aid or promote the  
488 success or defeat of a referendum question shall not make  
489 contributions to, or for the benefit of, a party committee, a political  
490 committee, a national committee, a committee of a candidate for  
491 federal or out-of-state office or a candidate committee, except in the  
492 distribution of a surplus, as provided in subsection (e) of section 9-608.

493 (b) A political committee formed solely to aid or promote the  
494 success or defeat of a referendum question shall not receive  
495 contributions from a national committee or from a committee of a



496 candidate for federal or out-of-state office.

497 (c) No person, [as defined in subdivision (9) of section 9-601,] other  
498 than an individual or a committee, shall make a contribution to a  
499 political committee formed solely to aid or promote the success or  
500 defeat of a referendum question, or to any other person, [as defined in  
501 subdivision (9) of section 9-601,] to aid or promote the success or  
502 defeat of a referendum question, in excess of ten cents for each  
503 individual residing in the state or political subdivision thereof in  
504 which such referendum question is to be voted upon, in accordance  
505 with the last federal decennial census.

506 [(d) Any such person other than an individual or a committee which  
507 makes expenditures or has expenses incurred but not paid in excess of  
508 one thousand dollars in the state or political subdivision thereof in  
509 which a referendum question is to be voted upon, shall file all  
510 designations and sworn financial statements required to be filed by  
511 political committees and comply with all provisions of this chapter  
512 which apply to political committees.]

513 Sec. 10. Section 9-621 of the general statutes is repealed and the  
514 following is substituted in lieu thereof (*Effective from passage*):

515 (a) No individual shall make or incur any expenditure with the  
516 [cooperation of, at the request or suggestion of,] consent of, in  
517 coordination with or in consultation with any candidate, candidate  
518 committee or candidate's agent, no group of two or more individuals  
519 acting together that receives funds or makes or incurs expenditures not  
520 exceeding one thousand dollars in the aggregate and has not formed a  
521 political committee shall make or incur any expenditure, and no  
522 candidate or committee shall make or incur any expenditure including  
523 an organization expenditure for a party candidate listing, as defined in  
524 subparagraph (A) of subdivision [(25)] (23) of section 9-601, as  
525 amended by this act, for any written, typed or other printed  
526 communication, or any web-based, written communication, which  
527 promotes the success or defeat of any candidate's campaign for  
528 nomination at a primary or election or promotes or opposes any

529 political party or solicits funds to benefit any political party or  
530 committee unless such communication bears upon its face (1) the  
531 words "paid for by" and the following: (A) In the case of such an  
532 individual, the name and address of such individual; (B) in the case of  
533 a committee other than a party committee, the name of the committee  
534 and its campaign treasurer; [or] (C) in the case of a party committee,  
535 the name of the committee; or (D) in the case of a group of two or more  
536 individuals that receives funds or makes or incurs expenditures not  
537 exceeding one thousand dollars in the aggregate and has not formed a  
538 political committee, the name of the group and the name and address  
539 of its agent, and (2) the words "approved by" and the following: (A) In  
540 the case of an individual, group or committee other than a candidate  
541 committee making or incurring an expenditure with the [cooperation  
542 of, at the request or suggestion of,] consent of, in coordination with or  
543 in consultation with any candidate, candidate committee or  
544 candidate's agent, the name of [such individual] the candidate; or (B)  
545 in the case of a candidate committee, the name of the candidate.

546 (b) In addition to the requirements of subsection (a) of this section:

547 (1) No candidate or candidate committee or exploratory committee  
548 established by a candidate shall make or incur any expenditure for  
549 television advertising or Internet video advertising, which promotes  
550 the success of such candidate's campaign for nomination at a primary  
551 or election or the defeat of another candidate's campaign for  
552 nomination at a primary or election, unless (A) at the end of such  
553 advertising there appears simultaneously, for a period of not less than  
554 four seconds, (i) a clearly identifiable photographic or similar image of  
555 the candidate making such expenditure, (ii) a clearly readable printed  
556 statement identifying such candidate, and indicating that such  
557 candidate has approved the advertising, and (iii) a simultaneous,  
558 personal audio message, in the following form: "I am .... (candidate's  
559 name) and I approved this message", and (B) the candidate's name and  
560 image appear in, and the candidate's voice is contained in, the  
561 narrative of the advertising, before the end of such advertising;

562 (2) No candidate or candidate committee or exploratory committee  
563 established by a candidate shall make or incur any expenditure for  
564 radio advertising or Internet audio advertising, which promotes the  
565 success of such candidate's campaign for nomination at a primary or  
566 election or the defeat of another candidate's campaign for nomination  
567 at a primary or election, unless (A) the advertising ends with a  
568 personal audio statement by the candidate making such expenditure  
569 (i) identifying such candidate and the office such candidate is seeking,  
570 and (ii) indicating that such candidate has approved the advertising in  
571 the following form: "I am .... (candidate's name) and I approved this  
572 message", and (B) the candidate's name and voice are contained in the  
573 narrative of the advertising, before the end of such advertising; and

574 (3) No candidate or candidate committee or exploratory committee  
575 established by a candidate shall make or incur any expenditure for  
576 automated telephone calls which promote the success of such  
577 candidate's campaign for nomination at a primary or election or the  
578 defeat of another candidate's campaign for nomination at a primary or  
579 election, unless the candidate's name and voice are contained in the  
580 narrative of the call, before the end of such call.

581 (c) No business entity, organization, association, committee, or  
582 group of two or more individuals who have joined solely to promote  
583 the success or defeat of a referendum question [and is required to file a  
584 certification in accordance with subsection (d) of section 9-605,] shall  
585 make or incur any expenditure for any written, typed or other printed  
586 communication which promotes the success or defeat of any  
587 referendum question unless such communication bears upon its face  
588 the words "paid for by" and the following: (1) In the case of a business  
589 entity, organization or association, the name of the business entity,  
590 organization or association and the name of its chief executive officer  
591 or equivalent; (2) in the case of a political committee, the name of the  
592 committee and the name of its campaign treasurer; (3) in the case of a  
593 party committee, the name of the committee; or (4) in the case of such a  
594 group of two or more individuals, the name of the group [as it appears  
595 on the certification filed in accordance with subsection (d) of section 9-

596 605,] and the name and address of its agent.

597 (d) The provisions of subsections (a), (b) and (c) of this section do  
598 not apply to (1) any editorial, news story, or commentary published in  
599 any newspaper, magazine or journal on its own behalf and upon its  
600 own responsibility and for which it does not charge or receive any  
601 compensation whatsoever, (2) any banner, (3) political paraphernalia  
602 including pins, buttons, badges, emblems, hats, bumper stickers or  
603 other similar materials, or (4) signs with a surface area of not more  
604 than thirty-two square feet.

605 (e) The campaign treasurer of a candidate committee which  
606 sponsors any written, typed or other printed communication for the  
607 purpose of raising funds to eliminate a campaign deficit of that  
608 committee shall include in such communication a statement that the  
609 funds are sought to eliminate such a deficit.

610 (f) The campaign treasurer of an exploratory committee or  
611 candidate committee established by a candidate for nomination or  
612 election to the office of Treasurer which committee sponsors any  
613 written, typed or other printed communication for the purpose of  
614 raising funds shall include in such communication a statement  
615 concerning the prohibitions set forth in subsection (n) of section 1-84,  
616 subsection (f) of section 9-612 and subsection (f) of section 9-613.

617 (g) In the event a campaign treasurer of a candidate committee is  
618 replaced pursuant to subsection (c) of section 9-602, nothing in this  
619 section shall be construed to prohibit the candidate committee from  
620 distributing any printed communication subject to the provisions of  
621 this section that has already been printed or otherwise produced, even  
622 though such communication does not accurately designate the  
623 successor campaign treasurer of such candidate committee.

624 (h) (1) No entity shall make or incur an independent expenditure for  
625 any written, typed or other printed communication, or any web-based,  
626 written communication, that promotes the success or defeat of any  
627 candidate for nomination or election or promotes or opposes any

628 political party or solicits funds to benefit any political party or  
629 committee, unless such communication bears upon its face the words  
630 "Paid for by" and the name of the entity, the name of its chief executive  
631 officer or equivalent, and its principal business address and the words  
632 "This message was made independent of any candidate or political  
633 party."

634 (2) In addition to the requirements of subdivision (1) of this  
635 subsection, no entity shall make or incur an independent expenditure  
636 for television advertising or Internet video advertising, that promotes  
637 the success or defeat of any candidate for nomination or election or  
638 promotes or opposes any political party or solicits funds to benefit any  
639 political party or committee, unless at the end of such advertising there  
640 appears simultaneously, for a period of not less than four seconds, (A)  
641 a clearly identifiable video, photographic or similar image of the  
642 entity's chief executive officer or equivalent, and (B) a simultaneous,  
643 personal audio message, in the following form: "I am .... (name of  
644 entity's chief executive officer or equivalent), .... (title) of .... (entity).  
645 This message was made independent of any candidate or political  
646 party, and I approved its content."

647 (3) In addition to the requirements of subdivision (1) of this  
648 subsection, no entity shall make or incur an independent expenditure  
649 for radio advertising or Internet audio advertising, that promotes the  
650 election or defeat of any candidate for nomination or election or  
651 promotes or opposes any political party or solicits funds to benefit any  
652 political party or committee, unless the advertising ends with a  
653 personal audio statement by the entity's chief executive officer or  
654 equivalent (A) identifying the entity paying for the expenditure, and  
655 (B) indicating that the message was made independent of any  
656 candidate or political party, using the following form: "I am .... (name  
657 of entity's chief executive officer or equivalent), .... (title), of ....  
658 (entity). This message was made independent of any candidate or  
659 political party, and I approved its content."

660 (4) In addition to the requirements of subdivision (1) of this

661 subsection, no entity shall make or incur an independent expenditure  
662 for automated telephone calls that promote the election or defeat of  
663 any candidate for nomination or election or promotes or opposes any  
664 political party or solicits funds to benefit any political party or  
665 committee, unless the narrative of the telephone call identifies the  
666 entity making the expenditure and its chief executive officer or  
667 equivalent.

668       Sec. 11. Section 9-622 of the general statutes is repealed and the  
669 following is substituted in lieu thereof (*Effective from passage*):

670       The following persons shall be guilty of illegal practices and shall be  
671 punished in accordance with the provisions of section 9-623:

672       (1) Any person who, directly or indirectly, individually or by  
673 another person, gives or offers or promises to any person any money,  
674 gift, advantage, preferment, entertainment, aid, emolument or other  
675 valuable thing for the purpose of inducing or procuring any person to  
676 sign a nominating, primary or referendum petition or to vote or refrain  
677 from voting for or against any person or for or against any measure at  
678 any election, caucus, convention, primary or referendum;

679       (2) Any person who, directly or indirectly, receives, accepts,  
680 requests or solicits from any person, committee, association,  
681 organization or corporation, any money, gift, advantage, preferment,  
682 aid, emolument or other valuable thing for the purpose of inducing or  
683 procuring any person to sign a nominating, primary or referendum  
684 petition or to vote or refrain from voting for or against any person or  
685 for or against any measure at any such election, caucus, primary or  
686 referendum;

687       (3) Any person who, in consideration of any money, gift, advantage,  
688 preferment, aid, emolument or other valuable thing paid, received,  
689 accepted or promised to the person's advantage or any other person's  
690 advantage, votes or refrains from voting for or against any person or  
691 for or against any measure at any such election, caucus, primary or  
692 referendum;

693       (4) Any person who solicits from any candidate any money, gift,  
694 contribution, emolument or other valuable thing for the purpose of  
695 using the same for the support, assistance, benefit or expenses of any  
696 club, company or organization, or for the purpose of defraying the cost  
697 or expenses of any political campaign, primary, referendum or  
698 election;

699       (5) Any person who, directly or indirectly, pays, gives, contributes  
700 or promises any money or other valuable thing to defray or towards  
701 defraying the cost or expenses of any campaign, primary, referendum  
702 or election to any person, committee, company, club, organization or  
703 association, other than to a campaign treasurer, except that this  
704 subdivision shall not apply to any expenses for postage, telegrams,  
705 telephoning, stationery, express charges, traveling, meals, lodging or  
706 photocopying incurred by any candidate for office or for nomination to  
707 office, so far as may be permitted under the provisions of this chapter;

708       (6) Any person who, in order to secure or promote the person's own  
709 nomination or election as a candidate, or that of any other person,  
710 directly or indirectly, promises to appoint, or promises to secure or  
711 assist in securing the appointment, nomination or election of any other  
712 person to any public position, or to any position of honor, trust or  
713 emolument; but any person may publicly announce the person's own  
714 choice or purpose in relation to any appointment, nomination or  
715 election in which the person may be called to take part, if the person is  
716 nominated for or elected to such office;

717       (7) Any person who, directly or indirectly, individually or through  
718 another person, makes a payment or promise of payment to a  
719 campaign treasurer in a name other than the person's own, and any  
720 campaign treasurer who knowingly receives a payment or promise of  
721 payment, or enters or causes the same to be entered in the person's  
722 accounts in any other name than that of the person by whom such  
723 payment or promise of payment is made;

724       (8) Any person who knowingly and wilfully violates any provision  
725 of this chapter;

726 (9) Any person who offers or receives a cash contribution in excess  
727 of one hundred dollars to promote the success or defeat of any political  
728 party, candidate or referendum question;

729 (10) Any person who solicits, makes or receives a contribution that  
730 is otherwise prohibited by any provision of this chapter;

731 (11) Any department head or deputy department head of a state  
732 department who solicits a contribution on behalf of, or for the benefit  
733 of, any candidate for state, district or municipal office or any political  
734 party;

735 (12) Any municipal employee who solicits a contribution on behalf  
736 of, or for the benefit of, any candidate for state, district or municipal  
737 office, any political committee or any political party, from (A) an  
738 individual under the supervision of such employee, or (B) the spouse  
739 or a dependent child of such individual;

740 (13) Any person who makes [a coordinated] an expenditure, that is  
741 not an independent expenditure, for a candidate without the  
742 knowledge of [said] such candidate. No candidate shall be civilly or  
743 criminally liable with regard to any such [coordinated] expenditure;

744 (14) Any chief of staff of a legislative caucus who solicits a  
745 contribution on behalf of or for the benefit of any candidate for state,  
746 district or municipal office from an employee of the legislative caucus;

747 (15) Any chief of staff for a state-wide elected official who solicits a  
748 contribution on behalf of or for the benefit of any candidate for state,  
749 district or municipal office from a member of such official's staff; or

750 (16) Any chief of staff for the Governor or Lieutenant Governor who  
751 solicits a contribution on behalf of or for the benefit of any candidate  
752 for state, district or municipal office from a member of the staff of the  
753 Governor or Lieutenant Governor, or from any commissioner or  
754 deputy commissioner of any state agency.

755 Sec. 12. Section 9-718 of the general statutes is repealed and the



756 following is substituted in lieu thereof (*Effective from passage*):

757 (a) Notwithstanding any provision of the general statutes, no party  
758 committee, legislative caucus committee or legislative leadership  
759 committee [, as defined in section 9-601,] shall make an organization  
760 expenditure [, as defined in subdivision (25) of section 9-601,] for the  
761 benefit of a participating candidate or the candidate committee of a  
762 participating candidate in the Citizens' Election Program for the office  
763 of state senator in an amount that exceeds ten thousand dollars for the  
764 general election campaign.

765 (b) Notwithstanding any provision of the general statutes, no party  
766 committee, legislative caucus committee or legislative leadership  
767 committee [, as defined in section 9-601,] shall make an organization  
768 expenditure [, as defined in subdivision (25) of section 9-601,] for the  
769 purposes described in subparagraph (A) of subdivision [(25)] (23) of  
770 section 9-601, as amended by this act, for the benefit of a participating  
771 candidate or the candidate committee of a participating candidate in  
772 the Citizens' Election Program for the office of state senator for the  
773 primary campaign.

774 (c) Notwithstanding any provision of the general statutes, no party  
775 committee, legislative caucus committee or legislative leadership  
776 committee [, as defined in section 9-601,] shall make an organization  
777 expenditure [, as defined in subdivision (25) of section 9-601,] for the  
778 benefit of a participating candidate or the candidate committee of a  
779 participating candidate in the Citizens' Election Program for the office  
780 of state representative in an amount that exceeds three thousand five  
781 hundred dollars for the general election campaign.

782 (d) Notwithstanding any provision of the general statutes, no party  
783 committee, legislative caucus committee or legislative leadership  
784 committee [, as defined in section 9-601,] shall make an organization  
785 expenditure [, as defined in subdivision (25) of section 9-601,] for the  
786 purposes described in subparagraph (A) of subdivision [(25)] (23) of  
787 section 9-601, as amended by this act, for the benefit of a participating  
788 candidate or the candidate committee of a participating candidate in

789 the Citizens' Election Program for the office of state representative for  
 790 the primary campaign.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	9-601
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	9-601a(a)
Sec. 4	<i>from passage</i>	9-602(a) and (b)
Sec. 5	<i>from passage</i>	9-605(d)
Sec. 6	<i>from passage</i>	9-612(e)
Sec. 7	<i>from passage</i>	9-613
Sec. 8	<i>from passage</i>	9-614
Sec. 9	<i>from passage</i>	9-620
Sec. 10	<i>from passage</i>	9-621
Sec. 11	<i>from passage</i>	9-622
Sec. 12	<i>from passage</i>	9-718

**Statement of Legislative Commissioners:**

Clarified language in sections 2, 5 and 7 and corrected an internal reference in section 1.

**GAE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill makes changes regarding independent expenditures to conform state law to the recent U.S. Supreme Court decision and results in no fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sHB 5471*****AN ACT CONCERNING INDEPENDENT EXPENDITURES.*****SUMMARY:**

This bill removes the prohibition on independent expenditures made by business entities and organizations (e.g., labor unions) and authorizes them to make unlimited independent expenditures. It establishes reporting and attribution requirements for independent expenditures similar to those under existing law for independent expenditures made by individuals. By removing the prohibition, it conforms state law to the recent U.S. Supreme Court decision in *Citizens United v. Federal Election Commission* (see BACKGROUND).

The bill removes a requirement that groups of two or more individuals register as a political committee (known as a PAC) upon receiving any funds or making or incurring any expenditures to promote or oppose a candidate, political party, or referendum question. Instead, it requires them to register upon receiving or raising \$1,000.

The bill also makes conforming and technical changes.

EFFECTIVE DATE: Upon passage

**DEFINITIONS**

By law, a “business entity” is a stock corporation; bank; insurance company; business association; bankers’ association; insurance association; trade or professional association that receives funds from membership dues and other sources; partnership; joint venture; private foundation; trust or estate; cooperative; or any other profit-making association, organization, or entity, whether organized in or outside of this state. It does not include professional service

corporations owned by a single individual; non-stock corporations that are not engaged in business or profit-making activity; organizations (defined below); or candidate committees, party committees, or PACs.

An “organization” is a labor organization; employee organization; bargaining representative organization for teachers; any local, state, or national organization to which a labor organization pays membership or per capita fees based upon its affiliation or membership; or a trade or professional association that receives its funds exclusively from membership dues, whether organized in or outside of this state. It does not include a candidate committee, party committee, or PAC.

Under the bill, entities may include business entities and organizations. Specifically, the bill defines “entity” as an organization, corporation, cooperative association, limited partnership, professional association, limited liability company, or limited liability partnership, whether organized in this or another state.

By law, “committee” means a party committee, a PAC (formed by two or more individuals, a labor organization, or a business), or candidate committee organized for a single primary, election, or referendum, or for ongoing political activities, to promote or oppose a political party, a candidate for public office or town committee member, or a referendum question.

By law, an “individual” is a human being; proprietor; or professional service organization owned by a single human being. A “person” is an individual, committee, firm, partnership, organization, association, syndicate, company trust, corporation, limited liability company, or any other legal entity other than the state or one of its political or administrative subdivisions. The bill expands the meaning of “agent” to include the entities defined as a person, rather than an individual, as under current law.

## **INDEPENDENT EXPENDITURES**

The bill removes the prohibition on independent expenditures by business entities and organizations, thus authorizing them to make

unlimited independent expenditures just as individuals may under existing law. Existing law does not limit expenditures by committees that are not coordinated with a candidate.

The bill also (1) redefines independent expenditure; (2) eliminates coordinated expenditures and in so doing, partly redefines contribution; and (3) establishes a rebuttable presumption that certain expenditures are not independent expenditures.

Under the bill, “independent expenditure” means an expenditure that is made without the consent, coordination, or consultation of a (1) candidate or candidate’s agent, (2) candidate committee, (3) PAC, or (4) party committee. The definition under current law includes expenditures made without the consent, participation, or consultation of a candidate or candidate committee’s agent and explicitly excludes all items defined as coordinated expenditures.

The bill redefines “contribution,” in part, as an expenditure that is not an independent expenditure. Under current law, it means an expenditure that is made in cooperation with, or at the request of, a candidate or his or her committee or agent, including a coordinated expenditure.

### ***Rebuttable Presumption***

The bill eliminates coordinated expenditures (considered contributions under current law). Instead, it creates a rebuttable presumption that certain expenditures are not independent expenditures and thus, are considered contributions for campaign finance purposes. It also specifies that the State Elections Enforcement Commission (SEEC) evaluates expenditures to determine whether they are independent expenditures.

Under the rebuttable presumption, the expenditures that are considered contributions are generally the same as coordinated expenditures under current law, with one exception. The bill specifies that the following also is not an independent expenditure: one made by a person who is an officer, director, member, employee, fundraiser,

consultant, or other agent serving the entity, PAC, or party committee in an executive or policymaking position and who serves as or has served in the same election cycle as the candidate, campaign chairperson, campaign treasurer, or deputy treasurer of a candidate committee, PAC, or party committee benefiting from the expenditure, or in any other executive or policymaking position in the candidate committee, PAC, or party committee.

### ***Reporting Requirements***

The bill subjects entities and committees that make independent expenditures to the same reporting requirements as the law establishes for individuals who make these expenditures. It also sets new ones.

Under current law, any individual who makes or obligates to make an independent expenditure or expenditures exceeding \$1,000 in the aggregate to promote the success or defeat of a statewide office or legislative candidate must file a report with the SEEC. The bill extends this requirement to entities and committees and to independent expenditures made for any purpose, not only to promote the success or defeat of a candidate.

Current law requires the report to include a statement identifying the candidate whom the expenditure promotes or opposes. It is filed under penalty of false statement, which is a class A misdemeanor. Anyone can file a complaint with the SEEC alleging a false report or statement, or that a report was not filed at all. The SEEC must promptly decide the complaint

The bill requires the report to also (1) affirm, under penalty of false statement, that the expenditure is an independent expenditure and (2) provide any other information that the SEEC requires to facilitate compliance with campaign finance laws or the Citizens' Election Program.

Existing deadlines for filing reports apply. If the independent expenditure is made more than 20 days before the primary or general election, the individual, entity, or committee must file the report

within 48 hours of doing so. Reports for independent expenditures made 20 days or less before the primary or general election must be filed within 24 hours.

As under current law, an individual, entity, or committee that fails to file a report for an independent expenditure made more than 20 days before the primary or general election is subject to a civil penalty of up to \$5,000, which the SEEC imposes. An individual, entity, or committee that fails to file a report for an independent expenditure made 20 days or less before the primary or general election is subject to a civil penalty of up to \$10,000. A knowing and willful failure to file is punishable by an additional fine of up to \$5,000, up to five years in prison, or both.

### ***Attribution Requirements***

By law, printed, video, and audio political communications paid for by people or committees must generally include an attribution. The bill expands the attribution law to cover political communications paid for by entities, including businesses and organizations, making independent expenditures to (1) promote the success or defeat of any candidate, (2) promote or oppose any political party, or (3) solicit funds to benefit any political party or committee. The attribution requirements are similar to those under existing law for candidates, candidate committees, and other committees. Table 1 shows the bill's attribution requirements.

***Table 1: Attributions Requirements for Communications Made Using Independent Expenditures***

<b><i>Type of Political Communication</i></b>	<b><i>Requirement</i></b>
Written communication, including one that is typed, printed, or web-based	<p>The material must bear upon its face:</p> <ul style="list-style-type: none"> <li>▪ "Paid for by" and the name of the entity, the chief executive officer (CEO) or equivalent, and the principal business address and</li> <li>▪ "This message was made independent of any candidate or political party."</li> </ul>



Television or Internet video advertising	<p>The end of the video must show, for at least four seconds:</p> <ul style="list-style-type: none"> <li>▪ a clearly identifiable image of the entity's CEO or equivalent and</li> <li>▪ a simultaneous, personal audio message, stating "I am (name of entity's CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content."</li> </ul>
Radio or Internet audio advertising	<p>The communication must include a personal audio statement by the CEO or equivalent:</p> <ul style="list-style-type: none"> <li>▪ identifying the entity paying for the expenditure and</li> <li>▪ indicating that the message was made independent of any candidate or political party, using the following form: "I am (name of entity's CEO or equivalent), (title) of (entity). This message was made independent of any candidate or political party, and I approved its content."</li> </ul>
"Robo Calls" (i.e., automated telephone calls)	<p>The narrative of the telephone call must identify the entity and its CEO or equivalent</p>

The bill also changes the standard for determining when communications paid for by individuals must include an attribution. Under current law, the requirement applies to communications paid for by individuals (1) cooperating with, (2) at the request or suggestion of, or (3) acting in consultation with, a candidate or his or her agent or committee to promote or defeat a candidate. Under the bill, it applies to individuals (1) acting with the consent of, (2) coordinating with, or (3) acting in consultation with, a candidate or his her agent or committee to promote or defeat a candidate.

Finally, the bill extends to a group of two or more individual who make expenditures under \$1,000 the attribution requirements for written, typed, printed, or written web-based communications.

### ***Illegal Practices***

The bill makes a conforming change by making it illegal to make an expenditure other than an independent expenditure for a candidate

without his or her knowledge. As under current law, a candidate is not liable for any such expenditure.

## **GROUPS OF TWO OR MORE INDIVIDUALS**

The bill removes the requirement that a group of two or more individuals acting together that spends up to \$1,000 to support or oppose a candidate or a referendum question must designate a campaign treasurer and depository institution or file a certification that the group's expenditures will not exceed \$1,000. It also eliminates the requirement that a group of individuals that spends \$1,000 or less in support or opposition to a referendum must file a certification with the SEEC or town clerk, whichever is applicable.

## **BACKGROUND**

### ***Related Case***

On January 21, 2010, the U. S. Supreme Court ruled in *Citizens United v. Federal Election Commission*, 558 U.S.,\_\_\_\_(2010), that corporations and unions have the same political speech rights as individuals under the First Amendment. It found no compelling government interest for prohibiting corporations and unions from using their general treasury funds to make election-related independent expenditures. Thus, it struck down a federal law that banning this practice and also overruled two of its prior decisions. Additionally, in an 8-1 decision, the Court ruled that the disclaimer and disclosure requirements associated with electioneering communications are constitutional.

## **COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 14 Nay 0 (03/24/2010)